

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GREAT DIVIDE WIND FARM 2 LLC,
a Delaware corporation, and GREAT
DIVIDE WIND FARM 3 LLC, a
Delaware corporation,

Plaintiffs,

vs.

No. CIV 19-0099 JB\CG

THERESA BECENTI AGUILAR;
CYNTHIA HALL; JEFFERSON BYRD;
VALERIE ESPINOZA; and STEPHEN
FISCHMANN, in their official capacities
as the Commissioners of the New Mexico
Public Regulation Commission,

Defendants,

and

EL PASO ELECTRIC COMPANY and
SOUTHWESTERN PUBLIC SERVICE
COMPANY,

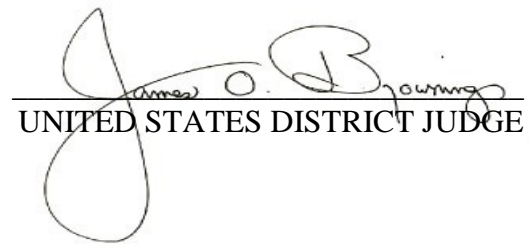
Intervenor-Defendants.

ORDER

THIS MATTER comes before the Court on Defendants Theresa Becenti Aguilar, Cynthia Hall, Jefferson Byrd, Valerie Espinoza, and Stephen Fischmann, and Intervenor-Defendants El Paso Electric Company and Southwestern Public Service Company's Motion for Summary Judgment, filed November 27, 2019 (Doc. 94). The Court orders as follows: (i) the Court grants the Motion for Summary Judgment for the reasons set forth in the Court's Memorandum Opinion and Order, filed November 7, 2019 (Doc. 89), that denied the Plaintiffs' Motion for Summary Judgment, filed June 12, 2019 (Doc. 57); (ii) the Defendants have reserved the right to seek costs as prevailing parties, and attorneys' fees if available by law, pursuant to rule 54(d) of the Federal

Rules of Civil Procedure and rules 54.1 and 54.2 of the Local Rules of the United States District Court for the District of New Mexico; and (iii) the Defendants have preserved all affirmative defenses and have preserved the right to seek costs in the event that the United States Court of Appeals for the Tenth Circuit reverses the grant of summary judgment to the Defendants, and the matter is remanded to the United States District Court for the District of New Mexico.

IT IS ORDERED that the Court grants the Defendants' Motion for Summary Judgment, filed November 27, 2019 (Doc. 94).



UNITED STATES DISTRICT JUDGE

Counsel:

Jason A. Marks
Jason Marks Law, LLC
Albuquerque, New Mexico

--and--

Adam Wenner
Cory Lankford
Jonathon Guy
Orrick, Herrington & Sutcliff, LLP
Washington, D.C.

Attorneys for the Plaintiffs

Judith E. Amer
New Mexico Public Regulation Commission
Santa Fe, New Mexico

*Attorneys for the Defendants Theresa Becenti Aguilar, Cynthia Hall, Jefferson Byrd,
Valerie Espinoza, and Stephen Fischmann*

Ron Moss
Winstead PC
Austin, Texas

--and--

Carol A. Clifford
Jerry Todd Wertheim
Jones, Snead, Wertheim & Clifford, P.A.
Santa Fe, New Mexico

Attorneys for the Intervenor-Defendant El Paso Electric Company

Will DuBois
Zoe Elizabeth Lees
Xcel Energy Services, Inc.
Austin, Texas

Attorneys for the Intervenor-Defendant Southwestern Public Service Company